

CBC Radio-Canada

July 30, 2012

George Alvarez
FOIP Coordinator
Human Services
12th Floor – Centre West Bldg.
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Edmonton, AB
T5J 3E1

Mr. Alvarez:

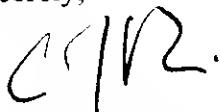
This request for all records as defined by Section 1(q) of the Act related to a list, and/or database, of the province's highest-risk employers.

Since this matter is in the public interest, I am requesting a waiver of all fees save the application fee. If my fee-waiver request is denied, please provide written reasons citing specific sections of the Act.

Also, please provide a receipt for the application fee with the written confirmation of my access application.

Please do not hesitate to contact me if you require further clarification but please conduct all communications in writing.

Sincerely,



Charles Rusnell
charles.rusnell@cbc.ca
C/O CBC Edmonton
P.O. Box 555
Edmonton, AB
T5J 2Y8

August 29, 2012

Charles Rusnell
CBC
P.O. Box 555
Edmonton, AB
T5J 2P4

Dear Mr. Rusnell:

**Re: *Freedom of Information and Protection of Privacy Act (the Act)*
Request for Information
Our File Number: 2012-G-0844**

We are replying to your request of July 26, 2012, under the *Freedom of Information and Protection of Privacy Act (the Act)* for:

"All records as defined by Section 1(q) of the Act related to a list, and/or database, of the province's highest-risk employers".

Access to all of the information that you requested is denied. The following exceptions to disclosure were applied.

Section 16 of *the Act* states that the head of a public body must refuse to disclose information to an applicant if it could reasonably be expected to harm the business interests of the third party.

Under section 20(1)(a) of *the Act*, the head of a public body may refuse to disclose information which could reasonably be expected to harm a law enforcement matter.

Information was also severed under section 24 of *the Act*, as the records contained the following:

- a) advice, proposals, recommendations, analyses or policy options developed by or for a public body ...
- b) consultations or deliberations involving ... employees of the public body
- c) positions, plans procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Alberta or a public body, or considerations that relate to those negotiations

Under section 29(1)(a) of *the Act*, the public body may refuse to disclose information that is readily available to the public. The business information you are seeking for the years 2006 to the present may be searched using the following websites: Safe & Fair Workplaces and Employer Records Search.

The logo for the Government of Alberta, featuring the word "Alberta" in a stylized script font, followed by a small blue and white square icon.

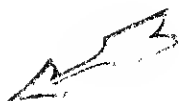


Office of the Information
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January 24th, 2013

Mr. Charles Rusnell
CBC Edmonton
PO Box 555
Edmonton, AB
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Ms. Barb Joyner
Acting Director and FOIP Coor.
Alberta Human Services
12th Floor, Centre West Bldg.
10035 - 108th Street
Edmonton, AB T5J 3E1

Dear Mr. Rusnell and Ms. Joyner;

Re: Request for Review F6441/Public Body File 2012-G-0844

This is further to my November 9th, 2012 letter. I have completed my review and my findings follow.

The Applicant's Access Request and Review Concern

The Applicant's access request was for:

...all records as defined by Section 1(q) of the Act related to a list, and/or database, of the province's highest-risk employers.

The Applicant's concern is that access to all of the information he requested was denied. He asked for a general review though also questions, in particular, whether "the public's interest, in terms of health and safety, trumps the sections cited...", and whether section 20(5) applies to the use of section 20(1).

Public Body's Position

I received a response to my questions from Alberta Human Services (the Public Body). The Public Body explained why it felt the provisions it applied to the records authorized a non-disclosure. For the record, those provisions are:

- Section 16 – harm to the business interests of the companies on the list.
- Section 20 – harm to a law enforcement matter.
- Section 24 – advice from an official of the public body.

The Public Body also noted that the information was available on public website so the information was also refused citing section 29 – information that is available to the public.

I also discussed the matter with the Privacy Manager. I was advised that the Public Body will not change its decision regardless of my findings.

Conclusion

I am not convinced the provisions cited allow for a non-disclosure. Briefly:

- With respect to section 16(1), the information is not supplied by a third party, rather it is a conclusion as determined by the Public Body, so the three part test is likely not met;
- With respect to section 20(1), I see the records as being "*a report prepared in the course of routine inspections by an agency that is authorized to enforce compliance with an Act of Alberta*" further to section 20(5). Therefore the protection of subsection (1) is reversed and disclosure is required; and
- With respect to section 24, the information in the records is not advice directed towards taking an action (indeed no advice or recommendation or consultation appears on the record, it is a list of company names that "may suggest" ~ as per the words of the Public Body ~ the organizations identified are the "highest risk employers").
- With respect to section 29, the information contained on the website does not capture what the Applicant requested. It is the conclusion of the Public Body that a particular set of employers are high risk that the Applicant is requesting.

I would recommend that the Public Body release the records. However, as I mentioned above I have already been informed that a decision change will not occur. Consequently, the Applicant must now decide whether he accepts the Public Body's final decision or whether he would prefer to proceed to an inquiry.

Next Steps Available in the Process

If Mr. Rusnell believes the issues are not resolved by this letter, please refer to the attached Request for Inquiry – Procedures and Requirements document. Please note that Mr. Rusnell's request for an inquiry must be received by our Office by **February 25th, 2013**. If I do not hear from Mr. Rusnell I will close this file.

You may contact the Registrar of Inquiries regarding the inquiry process at 780-422-6860 or toll free within Alberta at 1-888-878-4044. If you have any questions about my review, please call me at the same number. Thank you.

Yours truly,



Catherine Taylor
Investigator/Portfolio Officer

Enclosures for Applicant

Request for Inquiry – Procedures and Requirements
Request for Inquiry Form
Preparing for an Inquiry Brochure

Human Services—Occupational Health and Safety Systems

Summary

What we examined

In 2010, we audited systems the Department of Human Services used to promote, monitor, enforce and report on its occupational health and safety goals and objectives. We made five recommendations to the Department (formerly the Department of Employment and Immigration) in our *April 2010 Report* (starting at page 31).

This year, we conducted follow-up work to assess the Department's progress in implementing our recommendations to:

- promote and enforce compliance with the law¹ by high-risk employers and workers
- improve planning and reporting systems for OHS
- strengthen its proactive inspection program
- improve its systems to issue Certificates of Recognition (COR)
- strengthen the legislated permit and certificate program


Why this is important to Albertans

The impact of workplace injuries, illnesses and fatalities reaches well beyond workers and their families and leads to broader negative economic and social consequences, which include:

- workers losing their level of income, health and sometimes their lives
- employers facing costs such as legal expenses, additional hiring and training costs, loss of productivity and Workers' Compensation Board premium increases
- healthcare system ultimately funding and treating unreported injuries and diseases
- pressures on government resources to inspect, investigate and prosecute

What we found

The Department has fully implemented two of five recommendations. It strengthened its inspection program by analyzing employer safety data to identify, select and inspect worksites and employers within high-risk sectors. It also incorporated evening and weekend inspections. The Department strengthened and improved controls over its legislated permit and certificate programs by implementing a new system and policies for issuing asbestos certificates. It also improved processes for reviewing and monitoring external agencies.

While the Department has made progress, we highlight three areas that still need to improve. First and most important, the Department still has not sufficiently defined high-risk employers and workers. It also does not have processes that will comprehensively identify high-risk employers and workers and apply enforcement actions that will successfully deter them from breaking the law. This is why we have repeated this recommendation. However, the Department is pursuing administrative penalties and fines and has implemented a new inspection reporting system and a process for reviewing COR employers. 

Second, the Department is developing the current Work Safe Alberta strategic plan, but has not completed it. It has, however, initiated projects to obtain data on chronic injuries and diseases and reported on the effectiveness of key OHS programs and initiatives. Lastly, the Department has followed up on its recommendations to COR certifying partners, but it has not yet implemented quality reviews of COR auditors' work.

¹ The OHS Act, Regulation and Code set out specific requirements for occupational health and safety in Alberta.